IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

FRIDAY, THE 15TH JUNE 2007 / 25TH JYAISHTA 1929

OP.No. 20355 of 2000(W)

PETITIONER:

MRS.ANANDAVALLY VIJAYAN, W/o.LATE E.A.VIJAYAN
IRINJERI HOUSE, ENGANDIYOOR VILLAGE,
KUNDALIYOOR P.O., CHAVAKKAD TALUK, TRICHUR DIST.

BY ADV. SRI.N.N.SUGUNAPALAN (SR.)

RESPONDENTS:

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1. DEPUTY TAHSILDAR(R.R.), TALUK OFFICE, CHAVAKKAD.

2. ASSISTANT EXCISE COMMISSIONER, PALAKKAD.

3. SECRETARY TO GOVERNMENT (TAXES). SECRETARIAT, TRIVANDRUM.

4. STATE OF KERALA REPRESENTED BY THE CHIEF SECRETARY, SECRETARIAT, TRIVANDRUM.

BY GOVERNMENT PLEADER SRI.K.V.MANOJ

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 15/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P.NO.34055 OF 2000 IN O.P.NO.20355 OF 2000

DISMISSED.

15/6/07 Sd/-T.R.RAMACHANDRAN NAIR,JUDGE

APPENDIX

PETITIONERS EXHIBITS:

EXT.P1: COPY OF THE LETTER TO THE DEPARTMENT DATED 23.9.93.

EXT.P2: COPY OF THE PROCEEDINGS OF THE DEPARTMENT DT. 26.9.93.

EXT.P3: COPY OF REPRESENTATION DATED 15.11.99 PRODUCED BEFORE THE GOVERNMENT BY THE PETITIONER.

EXT.P4: COPY OF THE COMMUNICATION DT.21.6.2000 GOVT. TO THE PETITIONER.

TRUE COPY

P.A.TO JUDGE

T.R. Ramachandran Nair, J.

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O.P.NO.20355 of 2000-W

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Dated this the 15th day of June, 2007

JUDGMENT

The petitioner was a licensee along with three others in respect of arrack shop Nos.91 to 105 of Group III of Excise Circle, Palakkad for the year 1993-94. The shops in question were under departmental management from 6.10.1993 to 31.3.1994. The respondents, as per proceedings dated 21.6.2000, took a decision to grant reduction of duty/exempting the duty from 6.10.1993 to 31.3.1994 covering the said period. The grievance raised in the original petition relates to the claim of the petitioner for exemption for the period from 1.4.1993 to 5.10.1993 in respect of the excise duty payable by him. Going by the relevant provisions, particularly Rule 6(26) of the Kerala Abkari Shops (Disposal in Auction) Rules 1974, no remission or abatement of rental shall be claimable by the licensee on any account whatsoever. Hence, the petitioner is not legally entitled for any exemption or reduction. Prayers sought for in the original petition are therefore not sustainable.

Further, today when the matter came up for hearing, learned Govt. Pleader on instructions submits that the petitioner has remitted the entire

amount due from him and there is no subsisting grievance for the petitioner. Recording the above, the original petition is closed.

(T.R. Ramachandran Nair, Judge.)

kav/

T.R. Ramachandran Nair, J.

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O.P.NO.20355 of 2000-W

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JUDGMENT

15th day of June, 2007